

Joint Policy Memorandum

DATE: November 20, 2008

TO: Gov. Chris Gregoire, and Executive Policy Office
Attorney General Rob McKenna
Speaker Frank Chopp, and Reps. Bill Grant, Lynn Kessler, Brian Blake, Dan Newhouse, Steve Hailey, Kelli Linville, Judy Warnick, Joel Kretz; and Sens. Phil Rockefeller, Chris Marr, Ed Murray, Craig Pridemore, Mike Hewitt, Jerome Delvin, Jenea Holmquist, Jim Honeyford, and Mark Schoesler

FROM: Ron Reimann, President, Darryll Olsen, Ph.D.,
Columbia-Snake River Irrigators Association
Sean Clausen, President, WA State Hay Growers Association
Jack Fields, Exec. Vice-Pres., WA Cattlemen's Association
Ed Field, Exec. Dir., Washington Cattle Feeders Association
Wade King, Dir., Cattle Producers of WA
Dale Lathim, Exec. Dir., Potato Growers of WA, Inc.
Jack Williams, Exec. Dir., WA-OR Biofuel Crops Federation

SUBJECT: Undermining the Existing "Stock Watering" Exemption:
Letter from Mr. Ken Slattery, Water Resources Program
Asserting "Ecology Position" on Stock Watering Exemption

We regret that we must bring the subject of this correspondence to your attention and divert your time away from more pressing matters, but apparently, Mr. Ken Slattery, Ecology's Water Resources Program Director, presumes that your time is open to broader discretion.

Per his attached letter, Mr. Slattery has determined that it is "Ecology's position" to invoke a misleading interpretation of "stock watering" under the existing well exemption, and perhaps clear the path for a new round of agency regulation—affecting both existing and future stock watering operations.

First, we submit to you an attached legal opinion that underscores the legitimacy of the stock watering definition outlined by the Pollution Control Hearing Board in 2001, and implemented under the stock water exemption, as further defined by the Attorney General's Office in 2005. This is the standard that is being currently applied in Washington.

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Second, as demonstrated by the opinion, Mr. Slattery's reinterpretation of the stock watering exemption is legally off-point and without a well-reasoned basis in statutory-case law construction. The letter is clouded by subjective bias, leading to unsound judgment.

Third, the question of sound judgment is elevated further by the timing of this letter. Barely days after a heated governor's race and without notice or dialogue, Mr. Slattery takes it upon himself to broadcast this letter to the agricultural community and media, thus undermining collaborative discourse and good will. There is little respect portrayed here for Washington's agricultural community

Moreover, we consider this as little more than an insult to the Governor's Office and to Washington Legislators, where a cooperative approach has been forged to work with Washington water users, securing more economic development throughout the state.

Fourth, Mr. Slattery appears to be oblivious to the state's current economic condition, about to enter a severe recession with dire implications for jobs and income, and facing an increasing state budget deficit. Now is not the time to be crippling one of the state's key economic sectors.

Finally, we observe that executive/legislative leadership measures are required here to take corrective action toward Mr. Slattery's letter. The letter should be flatly repudiated by the executive office and legislative leadership, and "Ecology's position" restated to reaffirm the current working condition of the stock watering exemption.

We look to your timely, and appropriate, corrective action.

cc: Jay Manning, Director, WA State Dept. of Ecology
Bob Gore, Acting Dir. WA State Dept. of Agriculture

Attachments